

## **Exhibit 13**

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August 20, 2010

Client-Matter: 52044-070

**BY HAND**

Honorable Deborah A. Batts  
United States District Court for the Southern  
District of New York  
Daniel Patrick Moynihan United States  
Courthouse  
500 Pearl Street, Room 2510  
New York, NY 10007

**BY FACSIMILE – (212) 805-7986**

Honorable Paul G. Gardephe  
United States District Court for the Southern  
District of New York  
Daniel Patrick Moynihan United States  
Courthouse  
500 Pearl Street, Room 920  
New York, NY 10007

**Re: *The Seaport Group LLC v. Dale Earnhardt, Inc.*, No. 10-cv-01599 (DAB); and  
*Deutsche Bank Securities Inc. v. Dale Earnhardt, Inc.*, No. 10-cv-5910 (PGG).**

Dear Judges Batts and Gardephe:

We represent Plaintiff The Seaport Group LLC (“Seaport”) in the above-captioned matter before Judge Batts, and write in opposition to the August 17, 2010 request by Defendant Dale Earnhardt, Inc. (“DEI”) that these two actions be consolidated.

We join in the August 19, 2010 opposition submitted by Deutsche Bank Securities, Inc. (“Deutsche Bank”) because consolidation will slow both actions. Seaport’s action, unlike Deutsche Bank’s, seeks specific performance. It involves factual discovery and documentary evidence that has nothing to do with Deutsche Bank’s claims against DEI. Deutsche Bank’s action concerns separate transactions, communications, documents and agreements. It seeks only money damages and was filed more than five months after Seaport’s complaint.

Accordingly, we respectfully request that the Court not consolidate the two actions and that the conference before Judge Batts on August 27, 2010 in Seaport’s action take place as scheduled.

Respectfully Submitted,



Ronald G. Blum

cc: Dominic Picca, Esq. (by email)  
Toby S. Soli, Esq. (by email)